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COVID-19 Vaccine Passports and Health Care Providers

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On May 3, 2021, Florida Governor Ron DeSantis signed into law Senate Bill 2006, which goes into effect July 1, 2021. Senate Bill 2006 includes new Florida Statute (Fla. Stat.) § 381.00316, entitled "COVID-19 vaccine documentation," which prohibits any Florida business from mandating that a patron or customer provide proof of COVID-19 vaccination in order to gain access or receive services. This "vaccine passport" prohibition applies to all private, nonprofit organizations, schools, and government entities in Florida and sets forth steep penalties for businesses that are not in compliance, including a fine of up to \$5,000 "per violation." However, Fla. Stat. § 381.00316(5) provides a carve-out for certain sectors of the health care industry. More specifically, it provides a carve-out for "health care providers," as defined in Fla. Stat. § 768.38 (and definitions that the subsection references). The applicable definitions include a provider defined in Florida Statutes section 408.803, the licensed health care practitioners licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part II or part III of chapter 483; chapter 484; chapter 486; chapter 490; chapter 491; pharmacies licensed under chapter 465; and other specific entities.

Health care providers should consult with counsel to assess whether they are exempt from the subject law before adopting COVID-19 policies.

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